

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ERNEST BENTON,

Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:16-CV-015-D

ORDER

The United States Court of Appeals for the Fifth Circuit has remanded this appeal for this court to determine whether petitioner's notice of appeal was timely submitted for mailing, and then to return the case to the Fifth Circuit for appropriate action. The court determines that the appeal was timely filed.

After making an independent review of the pleadings, files, and records in this case and the March 14, 2019 findings, conclusions, and recommendation of the magistrate judge, the court concludes the magistrate judge's findings and conclusions are correct. The recommendation of the magistrate judge is adopted, and this court finds petitioner's appeal was timely filed.

The clerk of court shall transmit this order to Fifth Circuit.

SO ORDERED.

April 11, 2019.


SIDNEY A. FITZWATER
SENIOR JUDGE